

REMARKS

Claims 1-4 are present in the application.

The specification has been amended at page 7, line 18, as suggested by the Examiner in the Office Action. This obviates the objection to the drawing.

To further clarify the relationship of the terms in the preamble to the terms in the body of Claim 1, the original “frame” has been amended to read a “weight-driven pusher frame” and the original “backstop of the shelf” has been amended to read “the associated backstop of the shelf”.

Claims 1-4 are rejected as unpatentable over Parham, et al. U.S. 5,685,664 and Mason U.S. 6,234,328. The Examiner contends that it would have been obvious to provide the Parham pusher with the weight as taught by Mason to assist in frictional movement of the pusher.

THE COMBINATION OF REFERENCES IS IMPROPER

Parham and Mason are analogous in that they both relate to pusher systems for use on shelves or trays for the purpose of pushing the products to the front end, toward the customer. However, Parham and Mason represent non-analogous art because each is directed to a different and incompatible subdivision of the pusher art.

Parham is directed to a “spring-driven article pusher device” (col. 3, lines 29-32) which utilizes a spring 100 “to urge the respective pusher forwardly of the track 20 towards the respective front wall 26” (col. 3, lines 34-37). Such a spring-driven pusher is preferably of minimal weight so the that the limited spring force is expended

overcoming the inertia and frictional forces of the articles to be moved forward, not in overcoming the increased frictional forces of the weight-carrying pusher.

Mason is directed to a gravity-feed pusher 100 having a sled 104 containing weighted pellets 120 which "cause pusher 100 to slide down channels 20 on shelf 12, based upon gravity" (col. 5, lines 15-16). The weights placed on the pusher assist the pusher in overcoming not only the inertia and frictional forces of the articles to be moved forward, but also the inertia and frictional forces of the pusher.

Applicant respectfully submits that not only are the two references non-analogous to each other for the reasons set forth above but that, more specifically, there is no basis for adding weights to a spring-driven pusher system as the weights would only impede the functioning of the spring by increasing the inertia and frictional forces of the pusher. PARHAM ALONE DOES NOT TEACH THE PRESENT INVENTION

As noted above, Parham is directed to a "spring-driven article pusher device" (col. 3, lines 29-30), not the "weight-driven pusher for a product on a gravity-fed display shelf" set forth in the preamble to Claim 1. Applicant respectfully submits that the terms "weight-driven" and "gravity-fed" imply the absence of any spring for pushing or pulling the pusher to the front end of the shelf (such as Parham's spring 100). The Examiner will appreciate that these limitations of the preamble are repeated within the body of the claim and therefore the preamble is to be considered as providing life, vitality and meaning to the claim. Thus the preamble is to be deemed a limitation on the claimed pusher.

Claim 1 has been amended to require that the front plate be manually “selectively” adjustable in upper reach relative to the frame. The word “selectively” having been suggested by the Examiner. Applicant respectfully submits that the term “upper reach” is the equivalent of “different vertical locations” (see appended dictionary definition).

Further, Claim 3 has been amended to require that “said front plate is manually, selectively adjustable in a generally vertical plane to different vertical locations at which it is releasably retained,” as suggested by the Examiner. Thus amended Claim 3 recites in effect that the front plate can be releasably retained at each of the different vertical locations. By way of contrast, while the upper half of the Parham front plate 72 is manually pivotable rearwardly and downwardly from a generally vertical orientation to a generally horizontal orientation, it is not adjustable “in a generally vertical plane,” as required by both original and amended Claim 3.

Further, amended Claim 3 expressly requires that the front plate be “releasably retained” at the different vertical locations to which it can be manually selectively adjusted. By way of contrast, the upper half of the Parham front plate is retained only in its upright orientation (see FIG. 8) or its horizontal orientation (see FIG. 11).

Applicant respectfully submits that the Examiner misinterprets Parham with regard to the leg assembly which he identifies as elements 22, 50 and 52.

Parham element 22 is an elongate floor 22 of the track (col. 3, lines 45-48 “each track is of a one-piece construction... and includes... an elongate floor 22....”) The elements 50, 52 are outwardly directed flanges of the ribs of the track (col. 4, lines 29-

32; "the opposite end most ribs 48 of each track 20 are provided ... with ... flanges 50 and 52...."). That the flanges 50 and 52 are part of the track, and not part of the pusher 70, is clear from the statement "these flanges 50 and 52 form a pair of rails for engaging the respective pusher 70" (col. 4, lines 33-34).

Accordingly, Parham element 22 is a part of the track and not a part of the pusher frame. Thus it is not "retractably mounted on said frame... for retraction into said frame" as required by Claim 1, paragraph (C).

To summarize, the references are not properly combinable in the manner and for the reasons suggested by the Examiner. Further, Parham, when properly understood, in no way suggests Applicant's claimed "leg assembly retractably mounted on said frame," as required by Claim 1.

In view of the above amendments and remarks, reconsideration of the rejection and allowance of all claims is respectfully requested.

If an extension of time is required to enable this document to be timely filed and there is no separate Request for Extension of Time, this document is to be construed as also constituting a Request for Extension of Time Under 37 C.F.R. §1.136(a) for a period of time sufficient to enable this document to be timely filed. Any fee required for such a Request for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§1.16 and 1.17 and not submitted herewith should be charged to the Deposit

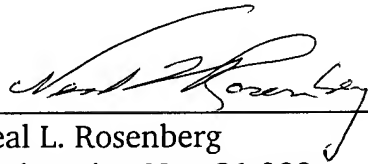
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Account of the undersigned attorneys, Account No. 01-1785; any refund should be credited to the same account. One copy of this document is enclosed.

Respectfully submitted

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